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An Act To Correct Errors and Inconsistencies in the Laws of Maine

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the laws of Maine; and

Whereas, these errors and inconsistencies create uncertainties and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary that these uncertainties and this confusion be resolved in order to prevent any injustice or hardship to the citizens of Maine; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 2 MRSA §6-B, as enacted by PL 1983, c. 579, §1, is repealed.

Sec. 2. 4 MRSA §183, sub-§4, as enacted by PL 2005, c. 385, §1, is amended to read:

4. Pilot project. Notwithstanding the jurisdictional limitations of subsection 1, the Chief Justice of the Supreme Judicial Court may establish a pilot project in which one or more family case management officers~~law magistrates~~ have jurisdiction to hear and dispose of all elements of a divorce action when both parties consent. Orders of the family case management officer~~law magistrate~~ are subject to appellate review in the same manner as any final order of the District Court.

Sec. 3. 4 MRSA §1614, as enacted by PL 1987, c. 438, §1, is amended to read:

§ 1614. Securities as legal investment

The securities of the authority shall ~~bear~~ legal investments in which all public officers and public bodies of the State, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, banking associations, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries and all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the State, may properly and legally invest funds, including capital, in their control or belonging to them. The securities are also, by this Act, made securities ~~which~~that may properly and legally be deposited with and received by all public officers and bodies of the State or any agency or political subdivision of the State and all municipalities and public corporations for any purpose for which the deposit of securities of bonds or other obligations of the State may be authorized by law.

Sec. 4. 5 MRSA §207, sub-§1, as enacted by PL 1969, c. 577, §1, is amended to read:

1. Intent. It is the intent of the Legislature that in construing this section the courts will be guided by the interpretations given by the Federal Trade Commission and the Federal Courts to ~~section 5(a)~~ ~~(1)~~ Section 45(a)(1) of the Federal Trade Commission Act (15 U.S.C. United States Code 45(a)(1)), as from time to time amended.

Sec. 5. 5 MRSA §282, sub-§4, as amended by PL 1987, c. 402, Pt. A, §12, is further amended to read:

4. Direct bureaus. To supervise and direct the activities of the bureaus ~~which~~ that may by statute be designated as being under the Department of ~~Finance~~ Administrative and Financial Services;

Sec. 6. 5 MRSA §307, as amended by PL 1985, c. 785, Pt. A, §34, is further amended to read:

§ 307. Interest in contracts prohibited

In addition to the limitations of section 18, ~~no~~ an employee of the Department of ~~Administration~~ Administrative and Financial Services or member of the commission ~~shall~~ may not be interested directly or indirectly in any contract or contracts calling for the construction or improvements of facilities, buildings and grounds in the Capitol Area in the City of Augusta as described in Title 1, section 814.

Sec. 7. 5 MRSA §471, as enacted by PL 2005, c. 656, §1, is amended to read:

§ 471. Creation

~~There is established the~~ The County and Local Government Internship Program, ~~administered by the Margaret Chase Smith Center for Public Policy within the University of Maine System referred to in this chapter as "the program," for attracting and placing~~ is established to attract and place qualified undergraduate and graduate college students temporarily within county and local governments.

Sec. 8. 5 MRSA §474, first ¶, as enacted by PL 2005, c. 656, §1, is repealed and the following enacted in its place:

The Margaret Chase Smith Center for Public Policy within the University of Maine System, referred to in this chapter as "the center," shall administer the program. The center's duties include the following.

Sec. 9. 5 MRSA §931, sub-§1, ¶L, as amended by PL 1997, c. 459, §2, is repealed.

Sec. 10. 5 MRSA §1541, sub-§6, as amended by PL 1987, c. 402, Pt. A, §38, is further amended to read:

6. Forms. To prescribe the forms of receipts, vouchers, bills or claims to be filed by ~~any and all~~ departments and agencies with the Department of ~~Finance~~ Administrative and Financial Services;

Sec. 11. 5 MRSA §1742-C, first ¶, as enacted by PL 1989, c. 483, Pt. A, §16, is amended to read:

The Department of ~~Administration~~Administrative and Financial Services, through the Bureau of ~~Public Improvements~~General Services, shall provide the following services to institutions of higher education.

Sec. 12. 5 MRSA §1825-C, as enacted by PL 1989, c. 785, §2, is amended to read:

§ 1825-C. Rulemaking

The State Purchasing Agent shall adopt rules under this subchapter governing the purchase of services, the awarding of grants or contracts; and the procedure by which aggrieved persons may appeal contract award decisions made by ~~any~~ department or agency of State Government. These rules must be adopted in accordance with the Maine Administrative Procedure Act and apply to all departments and agencies of State Government subject to the authority of the Department of ~~Administration~~Administrative and Financial Services as set forth in this chapter.

Sec. 13. 5 MRSA §7033, sub-§1, as enacted by PL 1985, c. 785, Pt. B, §38, is amended to read:

1. Goals and objectives. The Bureau of Human Resources is established within the Department of ~~Administration~~Administrative and Financial Services as the administrative agency for state civil service matters and as a service agency to state agencies and departments. In addition to any other goals and objectives established in this chapter, the Bureau of Human Resources shall strive to:

- A. Establish within State Government a high concern for state employees as people;
- B. Provide managers with the skills and knowledge needed to manage people effectively with particular emphasis on "people soundness;";
- C. Establish a civil service system that provides State Government with highly qualified and motivated employees;
- D. Encourage state employees to realize their potential and thereby increase the quality of service;
- E. Establish itself as a service agency to assist other agencies and departments of State Government to perform their duties in an efficient and quality manner;
- F. Preserve the integrity of the civil service system; and
- G. Establish a civil service system with sufficient flexibility to adopt new technologies, procedures and policies in order to respond quickly and effectively to the needs of state agencies and employees.

Sec. 14. 5 MRSA §7036, sub-§2, ¶B, as enacted by PL 1989, c. 501, Pt. P, §19 and amended by c. 702, Pt. E, §3, is further amended to read:

B. Charges may be made to state agencies for programs and services provided. Any rate schedule recommended by the director ~~must be reviewed by the Policy Review Board and be~~ subject to the approval of the commissioner.

Sec. 15. 5 MRSA §7036, sub-§7, as enacted by PL 1985, c. 785, Pt. B, §38, is amended to read:

7. Work closely with state agencies. Work closely and cooperate with state agencies with respect to personnel matters and personnel needs of state agencies and state employees. Personnel matters and personnel needs include, but are not limited to, the following:

- A. Requests of state agencies' lists of eligible persons to fill vacant or new positions;
- B. Requests of state agencies for reclassifications and reallocations of positions;
- C. Requests of state employees for information about job opportunities in State Government; and
- D. Requests of state employees for job reclassifications and reallocations.

The director shall, at least once a year, meet with the commissioners and directors of other state agencies to discuss, individually, the personnel needs and problems of each state agency and proposed solutions that may be offered by the various agencies. The director shall also discuss with each agency any future changes to the civil service system that the director ~~or the Policy Review Board intend~~intends to propose;

Sec. 16. 5 MRSA §7051, sub-§6, as amended by PL 1999, c. 668, §15, is further amended to read:

6. Temporary and provisional appointments. Whenever it is impossible to certify eligible persons for appointment to a vacancy in the classified service, the appointing authority may nominate a person to be the director. If the nominee is found by the director to have had experience and training ~~which~~that appear to qualify ~~him~~the nominee for the position, ~~he~~the nominee may be temporarily appointed to fill the vacancy in accordance with policies and procedures developed by the director ~~and the Policy Review Board~~.

- A. The director may make a provisional appointment to fill a technical or professional position ~~which~~that requires a specialized knowledge or training to carry out the duties of the position; and ~~which~~that cannot be filled from the eligible register.
- B. The director shall establish a policy to protect persons in temporary positions from remaining in a temporary position for an unreasonable period of time, not to exceed one year; ~~as determined by the board~~.
- C. The director may authorize, without requiring competitive tests, the appointment of unskilled laborers or persons engaged in custodial and domestic work in state institutions or departments.

Sec. 17. 5 MRSA §7063, 2nd ¶, as enacted by PL 1985, c. 785, Pt. B, §38, is amended to read:

The director, ~~with the advice of the board,~~ shall determine the character, type and content of examination for admission to the classified service; the time and place for holding examinations; the form of application blanks for admission to the examination to be filed by applicants; the minimum requirements for admission to the examination; and the value of each phase of the tests used in determining the average rating of the applicant. The director may adjust initial test results only to eliminate questions

that are proven not relevant to the purposes of the test or ~~which~~that have a bias that is prohibited by state or federal law. Once a minimum final earned rating is established for a particular test, it ~~shall~~may not be changed.

Sec. 18. 5 MRSA §7064, first ¶, as amended by PL 2003, c. 177, §1, is further amended to read:

Positions in the classified service must be filled by original appointment, promotion, transfer, reinstatement or demotion in accordance with policies and procedures developed by the director, ~~with advice from the board~~. These policies and procedures must provide for the direct hire of positions in the classified service where appropriate.

Sec. 19. 5 MRSA §7064, sub-§1, as amended by PL 2003, c. 177, §1, is further amended to read:

1. Objective. In developing policies and procedures for filling positions, the director ~~and board~~ must be guided by the principle of filling each position as efficiently and expeditiously as possible. The director shall strive to fill each position in 30 days and no later than 45 days from the date a request to fill a position has been received from a state agency.

Sec. 20. 5 MRSA §7065, first ¶, as enacted by PL 1985, c. 785, Pt. B, §38, is amended to read:

The director shall, as soon as practicable after the adoption of the classification plan, submit to the Legislature a proposed plan of compensation developed by the director, ~~with the advice of the board~~, showing for each class or position in the classified service minimum and maximum salary rates and such intermediate rates as ~~he deems~~the director considers desirable.

Sec. 21. 5 MRSA §7065, sub-§4, as enacted by PL 1985, c. 785, Pt. B, §38, is amended to read:

4. Compensation above the minimum step. In hiring any employee, the director or appointing authority may employ a person who is new to a state job classification above the minimum level established for that classification in order to compensate that person for the experience or outstanding qualifications that the person may possess. The director, ~~with the advice of the board~~, shall establish a policy to reflect the intent of this subsection.

Sec. 22. 5 MRSA §7070, 2nd ¶, as enacted by PL 1985, c. 785, Pt. B, §38, is amended to read:

The director shall maintain a perpetual roster of all officers and employees in the classified and unclassified services, showing for each person such data as ~~he and the board deem~~that the director considers pertinent.

Sec. 23. 5 MRSA §12004-I, sub-§24-A, as enacted by PL 1999, c. 779, §1, is repealed.

Sec. 24. 5 MRSA §13069, as repealed by PL 1995, c. 560, Pt. B, §5 and amended by c. 688, §8, is repealed.

Sec. 25. 5 MRSA §13075, as amended by PL 1989, c. 700, Pt. A, §20 and repealed by PL 1989, c. 702, Pt. E, §4, is repealed.

Sec. 26. 7 MRSA §607, sub-§6, as amended by PL 2005, c. 585, §1 and c. 620, §6, is repealed and the following enacted in its place:

6. Registration fee; validity. The applicant desiring to register a pesticide must pay an annual registration fee of \$150 for each pesticide registered for that applicant. Annual registration periods expire on December 31st or in a manner consistent with Title 5, section 10002, whichever is later.

Sec. 27. 8 MRSA §271, sub-§2, ¶A, as amended by PL 2005, c. 563, §4, is further amended to read:

A. The revenues to be generated, consistent with the profitability and financial health of the licensee, for the General Fund pursuant to section ~~275-H287~~; the purse supplements pursuant to section ~~275-1286~~; the Sire Stakes Fund pursuant to section 281; and the Stipend Fund pursuant to Title 7, section 86;

Sec. 28. 8 MRSA §275-I, as amended by PL 1997, c. 474, §4 and affected by §6 and repealed by PL 1997, c. 528, §28, is repealed.

Sec. 29. 8 MRSA §298, sub-§2, as repealed and replaced by PL 2005, c. 563, §9 and c. 576, §1, is repealed and the following enacted in its place:

2. Distribution. On April 30th, July 30th, October 30th and January 30th of each year, all amounts credited to the fund established by this section as of the last day of the preceding month and not distributed before that day must be distributed to each commercial track, as defined in section 275-A, subsection 1, to each agricultural fair licensee that conducts live racing on fair dates assigned by the commissioner pursuant to Title 7, section 84 and to each agricultural fair licensee that conducts an extended meet as long as that licensee conducted an extended meet in 2005, with each commercial track and each agricultural fair licensee receiving an amount of money determined by multiplying the amount of money available for distribution times a fraction, the numerator of which is the total number of live race dashes assigned to the commercial track or agricultural fair licensee for the year and the denominator of which is the total number of race dashes assigned to all commercial tracks and agricultural fair licensees for the year. The payment in January must be adjusted so that for the prior year each commercial track or agricultural fair licensee entitled to a distribution receives that portion of the total money distributed for the full year from the fund established by this section that is determined by multiplying the total amount of money by a fraction, the numerator of which is the number of live race dashes conducted by the commercial track or agricultural fair licensee during the calendar year that qualify for a distribution and the denominator of which is the total number of race dashes conducted during that calendar year that qualify for a distribution. For purposes of this subsection, a race dash qualifies for distribution if the dash was conducted by a commercial track or by an agricultural fair licensee on dates assigned under Title 7, section 84 or during an extended meet. The number of dashes held at an extended meet that qualify for distribution may not exceed the number of dashes conducted by the licensee during an extended meet in 2005. The funds distributed pursuant to this subsection must be used to supplement harness racing purses.

Sec. 30. 8 MRSA §372, sub-§2, ¶G, as enacted by PL 1987, c. 505, §2, is amended to read:

G. Subject to the approval of the commission and to any applicable laws relating to public contracts, enter into contracts for the operation of the lotteries, or any part of the lotteries, and into contracts for the promotion of the lotteries. All contracts ~~shall~~must be awarded in accordance with rules adopted by the Department of ~~Administration~~Administrative and Financial Services pursuant to Title 5, chapters 141 to 145; and Title 5, sections 1812 and 1813. ~~No~~A contract awarded or entered into by the director may not be assigned by the holder of the contract, except by specific approval of the commission.

Sec. 31. 8 MRSA §1036, sub-§2, ¶D, as amended by PL 2005, c. 563, §10 and c. 663, §12, is repealed and the following enacted in its place:

D. Three percent of the net slot machine income must be forwarded by the board to the Treasurer of State, who shall credit the money to the Agricultural Fair Support Fund established in Title 7, section 91;

Sec. 32. 12 MRSA §602, as amended by PL 1997, c. 641, §1 and repealed by c. 678, §9, is repealed.

Sec. 33. 12 MRSA §908, sub-§1, as enacted by PL 1989, c. 68, Pt. C, §2 and amended by PL 2003, c. 600, §4, is further amended to read:

1. Certain approval unnecessary; payments. Notwithstanding any other provision of law, the Baxter State Park Authority ~~shall~~does not need the approval of the Department of ~~Finance~~Administrative and Financial Services through the Office of the State Controller for the payment of any bills, invoices, accounts, payrolls or any other evidences of claims, demands or charges.

Sec. 34. 12 MRSA §908, sub-§2, as enacted by PL 1989, c. 68, Pt. C, §2, is amended to read:

2. Certain approval unnecessary; purchases. Notwithstanding any other provision of law, purchases of materials or services by the Baxter State Park Authority ~~shall~~do not need the approval of the Department of ~~Administration~~Administrative and Financial Services through the Bureau of ~~Purchases~~General Services.

Sec. 35. 12 MRSA §4818, as repealed by PL 1989, c. 403, §2 and amended by c. 502, Pt. B, §9, is repealed.

Sec. 36. 12 MRSA §6601, sub-§5, as amended by PL 2005, c. 233, §1 and c. 434, §4, is repealed and the following enacted in its place:

5. Fee. Except as provided in subsection 5-A, the fee for a commercial shellfish license is \$115.

Sec. 37. 12 MRSA §6601, sub-§5-A, as enacted by PL 2005, c. 233, §2, is amended to read:

5-A. Exception. The fee for a commercial shellfish license for applicants 70 years of age or older is \$57.50.

Sec. 38. 12 MRSA §8861, as amended by PL 1989, c. 502, Pt. B, §14 and repealed by c. 555, §9, is repealed.

Sec. 39. 14 MRSA §8116, last ¶, as amended by PL 1987, c. 740, §17, is further amended to read:

Any insurance purchased by the State under this section ~~shall~~must be purchased through the Department of ~~Administration~~Administrative and Financial Services, Risk Management Division.

Sec. 40. 20-A MRSA §13506, sub-§2, as amended by PL 1985, c. 785, Pt. A, §92, is further amended to read:

2. Transmittal of information. The commissioner shall transmit the necessary filing data to the Department of ~~Finance~~Administrative and Financial Services in sufficient time to allow the issuance of payments on February 15th and August 15th of each year.

Sec. 41. 20-A MRSA §13507-A, sub-§2, as amended by PL 1987, c. 524, is further amended to read:

2. Minimums. Notwithstanding any other provision of law, the State and the bargaining agent for state teachers in state-operated schools and related classifications shall at a minimum, in accordance with bargaining procedures set forth in Title 26, chapter 9-B, negotiate as to the impact of implementation of sections ~~13403~~13405 and ~~13404~~13406. The negotiations ~~shall~~must be limited to salaries. Minimum salaries established by those negotiations ~~shall~~must be based upon a 180-day school year and ~~shall~~must be proportionately higher for positions whose incumbents work for longer terms. Negotiations ~~shall~~must establish pay schedules ~~which~~that enable the State to be competitive with local school administrative units in recruitment and retention with regard to teachers and related classifications. The term "teachers and related classifications" includes any classification in State Government ~~which~~that is a teaching classification, requires professional work in or around the classroom setting or is within the career ladder of the classifications by virtue of its relationship to educational supervision or programming.

Sec. 42. 22 MRSA §1471-B, sub-§7, as amended by PL 1985, c. 785, Pt. A, §95, is repealed and the following enacted in its place:

7. State contracts. Notwithstanding any other provisions of law, members of the board are eligible to contract with the State when the contracts are awarded in accordance with normal bidding procedures of the Department of Administrative and Financial Services. Members also are eligible to receive grants when grants are awarded in accordance with normal state procedures. A member may not vote on the award of a contract or grant for which that member has submitted a bid or proposal.

Sec. 43. 22 MRSA §1713, as enacted by PL 1983, c. 824, Pt. X, §2, is repealed.

Sec. 44. 22 MRSA §1714-A, sub-§1, ¶B, as enacted by PL 1991, c. 9, Pt. G, §4, is amended to read:

B. "Debt" means any amount of money that is owed to the department as a result of:

- (1) Overpayments that have been determined by a department audit pursuant to the applicable principles of reimbursement, overpayments as reported by a provider in an unaudited cost report or overpayments that have been discovered in any other manner;

(2) The department's authority to recapture depreciation;

(3) The assessment of fines and sanctions;

(4) Projected overpayments reported in an interim cost report. If an interim report is not filed at least 30 days prior to the transfer, "debt" also includes 5% of Medicaid reimbursement or cost reimbursement for the last fiscal year or \$50,000, whichever is less; or

(5) A final reconciliation decision and order by the former Maine Health Care Finance Commission.

Sec. 45. 22 MRSA §7904-A, as amended by PL 2001, c. 531, §§1 to 3 and repealed by c. 596, Pt. A, §2 and affected by Pt. B, §25, is repealed.

Sec. 46. 22 MRSA §8707, sub-§4, as amended by PL 1999, c. 353, §13, is further amended to read:

4. Confidential or privileged designation. The rules must determine to be confidential or privileged information all data designated or treated as confidential or privileged by the former Maine Health Care Finance Commission. Information regarding discounts off charges, including capitation and other similar agreements, negotiated between a payor or purchaser and a provider of health care that was designated as confidential only for a limited time under the rules of the former Maine Health Care Finance Commission is confidential to the organization, notwithstanding the termination date for that designation specified under the prior rules. The board may determine financial data submitted to the organization under section 8709 to be confidential information if the public disclosure of the data will directly result in the provider of the data being placed in a competitive economic disadvantage. This section may not be construed to relieve the provider of the data of the requirement to disclose such information to the organization in accordance with this chapter and rules adopted by the board.

Sec. 47. 24-A MRSA §1531, as amended by PL 1997, c. 315, §20 and repealed by c. 457, §27 and affected by §55, is repealed.

Sec. 48. 28-A MRSA §61, as repealed by PL 1997, c. 373, §27 and amended by c. 424, Pt. B, §3, is repealed.

Sec. 49. 29-A MRSA §651, sub-§6, as enacted by PL 2005, c. 678, §6 and affected by §13, is amended to read:

6. Manufactured housing. Beginning ~~January~~October 1, 2007, the Secretary of State shall issue certificates of title for new single-unit manufactured housing beginning with model year 2007. Beginning ~~January~~October 1, 2007, the Secretary of State shall issue a certificate of title for used manufactured housing that was previously issued a State of Maine certificate of title.

Sec. 50. 29-A MRSA §652, sub-§9, ¶A, as enacted by PL 2005, c. 678, §7 and affected by §13, is amended to read:

A. Sold before ~~January~~October 1, 2007;

Sec. 51. Retroactivity. Those sections of this Act that amend Title 29-A, section 651, subsection 6 and section 652, subsection 9, paragraph A apply retroactively to January 1, 2007.

Sec. 52. 30-A MRSA §4722, sub-§1, ¶AA, as enacted by PL 2005, c. 644, §3, is amended to read:

AA. Certify transfers of multifamily affordable housing property that qualify for the deduction under Title 36, section 5122, subsection 2, paragraph ~~WZ~~ or Title 36, section 5200-A, subsection 2, paragraph Q. The affordability restrictions that apply under this paragraph must be contained in a declaration signed by the transferee and recorded in the appropriate registry of deeds at the time of the sale or transfer.

(1) For the purposes of this paragraph, "multifamily affordable housing property" means a decent, safe and sanitary dwelling, apartment building or other living accommodation that includes at least 6 units, that meets at least one of the following affordability restrictions and for which those affordability restrictions, as applicable, expire in 10 years or less from the date of the sale or transfer of the property:

(a) At least 20% of the units have restricted rents affordable to households earning no more than 80% of the area median income as determined by the United States Department of Housing and Urban Development;

(b) The property is assisted by the United States Department of Housing and Urban Development, the United States Department of Agriculture or the Maine State Housing Authority; or

(c) The property qualifies for low-income housing credits under the United States Internal Revenue Code of 1986, Section 42.

(2) For the purposes of this paragraph, property does not qualify as multifamily affordable housing property unless:

(a) The transferee agrees to maintain the property as multifamily affordable housing property for an additional 30 years from the scheduled expiration;

(b) If the existing federal, state or other assistance is not available to maintain the property as multifamily affordable housing property, the transferee agrees to ensure that 1/2 of the units are affordable to persons at 60% of the area median income as determined by the United States Department of Housing and Urban Development for 30 years from the expiration of the then-existing affordability restrictions; or

(c) The transferee agrees to an alternative affordability agreement approved by the Maine State Housing Authority.

Sec. 53. 30-A MRSA §4952, first ¶, as enacted by PL 1989, c. 48, §§11 and 31, is amended to read:

The Maine State Housing Authority and the Department of ~~Administration~~Administrative and Financial Services shall develop a procedure by which state-owned land and structures determined to be surplus and useable or needed for the furtherance of the development of affordable housing for low-income and moderate-income households ~~shall~~must be held in trust for this purpose and may not be sold or used for other purposes, except with the approval of the Commissioner of ~~Administration~~Administrative and Financial Services and the Director of the Maine State Housing Authority.

Sec. 54. 30-A MRSA §5250-I, sub-§7-A, as enacted by PL 2005, c. 637, §1, is amended to read:

7-A. Experiential tourism. "Experiential tourism" means tourism that allows individuals to be active participants in outdoor recreational activities including but not limited to: hiking, camping, birding and other wildlife viewing, nature photography, visits to historical and cultural ~~sights~~sites and museums, nature tourism, adventure tourism and ecotourism.

Sec. 55. 30-A MRSA §5250-J, sub-§1, ¶D, as repealed and replaced by PL 2005, c. 637, §2 and amended by c. 650, §2, is repealed and the following enacted in its place:

D. Washington County and the Downeast region including 2 pilot projects to be established by the commissioner:

(1) A pilot project for the property of the former Cutler naval computer and telecommunications station, which may be excluded from the qualified business definitions established under section 5250-I, subsections 16 and 17 if a for-profit business is engaged in, or will engage in, tourism development including recreational tourism, experiential tourism, hotel development and resort facility development; and

(2) A pilot project that allows seasonal employees in seasonal industries based on natural resources to be considered qualified Pine Tree Development Zone employees for the purposes of section 5250-I, subsection 18;

Sec. 56. 32 MRSA §1866-A, as repealed by PL 1995, c. 395, Pt. P, §3 and affected by §11 and amended by c. 465, Pt. A, §10 and affected by Pt. C, §2, is repealed.

Sec. 57. 33 MRSA §595, sub-§1, ¶B, as enacted by PL 2005, c. 572, §2, is amended to read:

B. If, after expiration of the 30-day period under paragraph A, the time-share owner has not cured the default in the manner prescribed, the person seeking to foreclose shall conduct a public auction under the conditions described in this paragraph.

(1) Notice under this paragraph must be given as follows.

(a) Notice of the sale must be published once in each of 3 successive weeks in a newspaper with a general circulation in the town in which the time-share property is situated. The first publication must be not later than 30 days before the date of the sale, calculated by excluding the date of publication of the first notice and the date of sale.

(b) A written notice of the time, date and place of the auction must be mailed to the last known address of the time-share owner of record by certified mail, return receipt requested, and by first class mail at least 30 days prior to the date of sale. The notice to the time-share owner must include the following language: "You are hereby notified that you have a right to petition the Superior Court or District Court for the county or district in which the time-share estate is located, with service on the foreclosing person, and upon such bond as the court may require, to enjoin the scheduled foreclosure sale." The notice of sale also must be sent by certified mail, return receipt requested, to all persons having a lien on the time-share estate at least 30 days prior to the date of the foreclosure sale.

(c) The notice must contain:

(i) The name of the time-share owner;

(ii) The date, time and place of the foreclosure sale;

(iii) A general description of the time-share estate; and

(iv) The terms of the sale.

If more than one time-share estate is to be included in the foreclosure sale, all such time-share estates may be combined into one notice of sale, with one property description, as described in division (d) or (e).

(d) The notice of foreclosure for foreclosing on the lien of a time-share estate must be printed in substantially the following form:

**NOTICE OF SALE OF TIME-SHARE ESTATE OR ESTATES UNDER TITLE 33,
SECTION 595 OF THE MAINE REVISED STATUTES ANNOTATED**

By virtue of the project instrument of the(name and address of time-share property) and Title 33, section 594 establishing a lien for failure to pay assessments on the time-share estate (or estates, if more than one) held by the time-share owner (or owners, if more than one) listed below, the time-share estate (or estates, if more than one) will be sold at Public Auction commencing at on , 20.. at, Maine. (For each time-share estate, list the name and address of the time-share owner, a general description of the time-share estate and the book and page number of the deed.)

TERMS OF SALE: (State the deposit amount to be paid by the purchaser at the time and place of the sale and the times for payment of the balance or the whole, as the case may be. The time-share estates, if more than one, must be sold in individual lots unless there are no individual bidders, in which case they may be sold as a group.)

Other terms to be announced at the sale.

Signed.....
Lienholder or authorized agent.

(e) For foreclosure of a mortgage lien containing a power of sale on a time-share estate, a notice of sale must be printed in substantially the following form:

**NOTICE OF SALE OF TIME-SHARE ESTATE OR ESTATES UNDER TITLE 33,
SECTION 595 OF THE MAINE REVISED STATUTES ANNOTATED**

By virtue of Title 33, section 595 and in execution of the power of sale contained in a certain mortgage (or mortgages, if more than one) on the time-share estate (or estates, if more than one) given by the time-share owner (or owners, if more than one) set forth below for breach of the conditions of said mortgage (or mortgages, if more than one) and for the purpose of foreclosing, the same will be sold at Public Auction commencing at on, 20.. at, Maine, being all and singular the premises described in said mortgage (or mortgages, if more than one). (For each mortgage, list the name and address of the time-share owner, a general description of the time-share estate and the book and page number of the mortgage.)

TERMS OF SALE: (State the deposit amount to be paid by the purchaser at the time and place of the sale and the times for payment of the balance or the whole, as the case may be. The time-share estates, if more than one, must be sold in individual lots unless there are no individual bidders, in which case they may be sold as a group.)

Other terms to be announced at the sale.

Signed
Holder of Mortgage or authorized agent.

(f) The notice of sale in the forms described in divisions (d) and (e), published in accordance with the provisions of this section, together with such other or further notice, if any, constitutes sufficient notice of the sale.

(2) The foreclosure sale must be conducted pursuant to this subparagraph.

(a) The foreclosure sale must take place on the time-share property or some other location within the same town as the time-share property.

(b) The foreclosure sale must be by public auction, conducted by an auctioneer or attorney licensed to practice in the State. At the discretion of the auctioneer or attorney, the reading of the names of the time-share owners, if more than one, the description of time-share estates, if more than one, and the recording information, if more than one instrument, may be dispensed with.

(c) All rights of redemption of the time-share owner are extinguished upon sale of a time-share estate.

(d) The managing entity, the foreclosing person or any time-share owner may bid at the foreclosure sale. The successful buyer at the foreclosure sale takes title to the time-share estate free and clear of any outstanding assessments owed by the prior time-share owner to the managing entity. A purchaser at a sale is not required to complete the purchase if there are liens and encumbrances, other than those included in the notice of sale, that are not stated at the sale and included in the foreclosing person's contract with the purchaser.

(e) Upon closing, the foreclosing person shall provide the buyer with a foreclosure deed or other appropriate instrument transferring the rights to the time-share estate and an affidavit attesting that all requirements of the foreclosure pursuant to this section have been met.

The time-share estate is deemed to have been sold, and the instrument conveying the time-share estate must transfer the time-share estate, subject to municipal or other public taxes and to any liens and encumbrances recorded prior to the recording of the mortgage or the lien for assessments.

(f) The buyer shall record the foreclosure deed or other instrument with the appropriate registry of deeds no more than 30 days after the foreclosure sale date.

(g) Within 30 days after the closing and transfer of the foreclosure deed or other instrument and affidavit, the foreclosing person shall mail a notice detailing the results of the foreclosure sale to the last known address of the former time-share owner and all parties that held a junior interest to that of the foreclosing person.

Sec. 58. 34-B MRSA §1205, sub-§1, as amended by PL 2005, c. 397, Pt. A, §43 and repealed and replaced by c. 519, Pt. RR, §2 and affected by §4, is repealed and the following enacted in its place:

1. Establishment. The Office of Advocacy, referred to in this section as "the office," is established within the department solely to investigate the claims of rights violations and grievances of clients of the department and to advocate on behalf of clients for compliance by any institution, other facility or agency administered, licensed or funded by the department to serve clients with all laws, administrative rules and institutional and other policies relating to the rights and dignity of clients.

Sec. 59. 34-B MRSA §1205, sub-§3, ¶F, as amended by PL 2005, c. 397, Pt. A, §45 and repealed and replaced by c. 519, Pt. RR, §2 and affected by §4, is repealed and the following enacted in its place:

F. Make and publish reports necessary to the performance of the duties described in this section. The chief advocate may report findings of the office to groups outside the department, such as legislative bodies, advisory committees, commissions, law enforcement agencies and the press, and may authorize the advocates in the office to so communicate. At least annually, the chief advocate shall report both in person and in writing to the joint standing committee of the Legislature having jurisdiction over mental health and mental retardation matters; and

Sec. 60. 34-B MRSA §1207, sub-§1, ¶B-2, as enacted by PL 1995, c. 497, §5, is repealed.

Sec. 61. 36 MRSA §271, sub-§2, ¶A, as amended by PL 2005, c. 609, §1, is further amended to read:

A. Hear and determine appeals according to the following provisions of law:

(1) The tree growth tax law, chapter 105, subchapter 2-A;

(2) The farm and open space law, chapter 105, subchapter 10;

(3) As provided in section 843;

(4) As provided in section 844;

(5) Section 272;

(6) Section 2865; and

(7) The current use valuation of certain working waterfront land law, chapter 105, subchapter ~~11~~10-A;

Sec. 62. 36 MRSA c. 105, sub-c. 10-A is enacted to read:

SUBCHAPTER 10-A

CURRENT USE VALUATION OF CERTAIN WORKING WATERFRONT LAND

§ 1131. Purpose

It is declared that it is in the public interest to encourage the preservation of working waterfront land and to prevent the conversion of working waterfront land to other uses as the result of economic pressures caused by the assessment of that land, for purposes of property taxation, at values incompatible with its use as working waterfront land and that the necessity in the public interest of the enactment of this subchapter in accordance with the Constitution of Maine, Article IX, Section 8 is a matter of legislative determination.

§ 1132. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Commercial aquaculture production. "Commercial aquaculture production" has the same meaning as in section 2013, subsection 1, paragraph A-1.

2. Commercial fishing. "Commercial fishing" means harvesting or processing, or both, of wild marine organisms with the intent of disposing of them for profit or trade in commercial channels.

3. Commercial fishing activities. "Commercial fishing activities" means commercial aquaculture production and commercial fishing. "Commercial fishing activities" does not include retail sale to the general public of marine organisms or their byproducts, or other products or byproducts of commercial aquaculture production or commercial fishing.

4. Excess valuation factor. "Excess valuation factor" means a market-based influence on the determination of the just value of working waterfront land that would result in a valuation that is in excess of that land's current use value. "Excess valuation factor" includes, but is not limited to, aesthetic factors, recreational water-use factors, residential housing factors and nonresidential development factors unrelated to working waterfront uses.

5. Head of tide. "Head of tide" means the inland or upstream limit of water affected by the tide.

6. Intertidal zone. "Intertidal zone" means all land affected by the tides between the mean high-water mark and the mean low-water mark.

7. Marine organism. "Marine organism" means an animal or plant that inhabits intertidal zones or waters below head of tide.

8. Support the conduct of commercial fishing activities. "Support the conduct of commercial fishing activities" means:

A. To provide access to the water or the intertidal zone over waterfront property to persons directly engaged in commercial fishing activities; or

B. To conduct commercial business activities that provide goods or services that directly support commercial fishing activities.

9. Used predominantly. "Used predominantly" means used more than 90% for commercial fishing activity, allowing for limited uses for noncommercial or nonfishing activities if those activities are minor and purely incidental to a property's predominant use.

10. Used primarily. "Used primarily" means used more than 50% for commercial fishing activity.

11. Working waterfront land. "Working waterfront land" means a parcel of land, or a portion thereof, abutting water to the head of tide or land located in the intertidal zone that is used primarily or used predominantly to provide access to or support the conduct of commercial fishing activities. For purposes of this subchapter, a parcel is deemed to include a unit of real estate notwithstanding the fact that it is divided by a road, way, railroad or pipeline.

§ 1133. Owner's application

An owner or owners of land may elect to apply for taxation under this subchapter for the tax year beginning April 1, 2007 and for subsequent tax years by filing with the assessor the schedule provided for in section 1137, subsection 1.

§ 1134. Administration; rules

The State Tax Assessor may adopt rules necessary to carry out this subchapter. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§ 1135. Current use valuation of working waterfront land

The municipal assessor, chief assessor or State Tax Assessor for the unorganized territory shall establish the current use value per parcel for property classified as working waterfront land. The current use value of working waterfront land is the sale price that the parcel would command in the marketplace if it were required to remain in the use currently being made of the parcel as working waterfront land. The assessor may use one of the following methods to determine current use value.

1. Comparative valuation. The assessor may determine the current use value of working waterfront land by considering:

- A. All excess valuation factors that affect the land's just value;
- B. The comparative valuation of inland commercial enterprises that are being assessed on the basis of a use that is similar to the use of the working waterfront land with respect to function, access and level of activity; and
- C. Any other factor that results in a determination of the current use value of the working waterfront land.

2. Alternative valuation. If there is insufficient data to determine the current use value of working waterfront land under subsection 1, the assessor may reduce the ordinary assessed valuation of the land, without regard to permanent protection restrictions and as reduced by the certified ratio, by applying the percentage reductions for which the land is eligible according to the following categories.

- A. Working waterfront land used predominantly as working waterfront land is eligible for a reduction of 20%.
- B. Working waterfront land used primarily as working waterfront land is eligible for a reduction of 10%.
- C. Working waterfront land that is permanently protected from a change in use through deeded restrictions is eligible for the reduction described in paragraph A or B and an additional reduction of 30%.

§ 1136. Assessment of tax

An assessment of working waterfront land for purposes of property taxation must be based on the value determined in accordance with this subchapter.

§ 1137. Schedule; qualification

1. Schedule. The owner or owners of waterfront land may apply for taxation under this subchapter by submitting a signed schedule in duplicate, on or before April 1st of the year in which the owner or owners wish to first subject such land to taxation under this subchapter, to the assessor upon a form to be prescribed by the State Tax Assessor that must contain a description of the parcel, together with a map identifying the location and boundaries of the working waterfront land, a description of the manner in which the land is used primarily for commercial fishing activities and other information the

assessor may require to aid in the determination of what portion of the land qualifies for classification as working waterfront land. The schedule must be signed and consented to by each person with an ownership interest in the land. Classification of the land as working waterfront land may not be inconsistent with the use prescribed in the comprehensive plan, growth management program or zoning ordinance of the municipality.

In defining the working waterfront land area contained within a parcel, land used primarily for commercial fishing activities must be included, together with any remaining portion of the parcel that is not used for purposes inconsistent with commercial fishing activities as long as the remaining portion is not sufficient in dimension to meet the requirements for a minimum lot as provided by either the state minimum lot requirements as prescribed by Title 12, section 4807-A or Title 38, chapter 3, subchapter 1, article 2-B, as applicable, or the minimum lot size provided by the zoning ordinance or zoning map pertaining to the area in which the remaining portion is located.

2. Classification. The assessor shall determine what land meets the requirements of this subchapter and shall classify such land as working waterfront land in accordance with this subchapter. The assessor shall file, in the municipal office of the town in which the working waterfront land is located, the original schedule and the value of the working waterfront land as established under this subchapter and the value at which the working waterfront land would have been assessed had it not been classified under this subchapter.

3. Notification of determination. The assessor shall notify the owner or owners in writing of the assessor's determination as to the applicability of this subchapter by June 1st following receipt of a signed schedule meeting the requirements of this section. The assessor's notification must state whether the application has been accepted or denied, and if denied the assessor shall state the reasons for the denial and provide the owner or owners an opportunity to amend the schedule to conform to the requirements of this subchapter.

4. Investigation. The assessor or the assessor's duly authorized representative may enter and examine the lands under this subchapter for tax purposes and may examine any information submitted by the owner or owners.

Upon notice in writing by certified mail, return receipt requested, any owner or owners shall, within 60 days of the receipt of such notice, respond to such written questions or interrogatories as the assessor may consider necessary to obtain material information about those lands. If the assessor determines that it is not reasonable to obtain the required material information regarding those lands through such written questions or interrogatories, the assessor may require any owner or owners, upon notice in writing by certified mail, return receipt requested, or by such other method as provides actual notice, to appear before the assessor at such reasonable time and place as the assessor may designate and answer such questions or interrogatories as the assessor may consider necessary to obtain material information about those lands.

5. Owner obligation. If the owner or owners of any land subject to taxation under this subchapter fail to submit the schedules under this section, or fail to respond, within 60 days of receipt, to written questions or interrogatories of the assessor, or fail within 60 days of receipt of notice as provided in this section to appear before the assessor to respond to questions or interrogatories, or fail to provide information after notice duly received as provided under this section, that owner or those owners are deemed to have waived all rights of appeal.

It is the obligation of the owner or owners to report to the assessor any disqualifying change of use of land subject to taxation under this subchapter by the end of the tax year in which the change occurs. If the owner or owners fail to report any disqualifying change of use of land to the assessor, the assessor shall assess those taxes that should have been paid, shall assess the penalty provided in section 1138 and shall assess an additional penalty of 25% of the foregoing penalty amount. The assessor may waive the additional penalty for cause.

6. Recertification. The assessor shall determine annually whether any classified land continues to meet the requirements of this subchapter. Each year the assessor shall recertify any classifications made under this subchapter and update the information required under subsection 1. If any classified land no longer meets the requirements of this subchapter, or the owner or owners request withdrawal of the land from the classification in writing, the assessor shall remove the classification.

§ 1138. Recapture penalty

1. Assessor determination; owner request. If the assessor determines that land subject to this subchapter no longer meets the requirements of this subchapter, the assessor must withdraw the land from taxation under this subchapter. The owner or owners of land subject to this subchapter may at any time request withdrawal of any land from taxation under this subchapter by certifying in writing to the assessor that the land is no longer to be classified under this subchapter.

2. Withdrawal of portion. In the case of withdrawal of a portion of the working waterfront land, the owner or owners, as a condition of withdrawal, shall file with the assessor a schedule including the information required under section 1137, subsection 1 showing the area withdrawn and the area remaining under this subchapter.

3. Penalty. If land is withdrawn from taxation under this subchapter, the assessor shall impose a penalty upon the owner or owners. The penalty is the greater of:

A. An amount equal to the taxes that would have been assessed on the first day of April for the 5 tax years, or any lesser number of tax years starting with the year in which the property was first classified, preceding such withdrawal had such real estate been assessed in each of those years at its just value on the date of withdrawal less all taxes paid on that real estate over the preceding 5 years, and interest at the prevailing municipal rate from the date or dates on which those amounts would have been payable; and

B. An amount computed by multiplying the amount, if any, by which the fair market value of the real estate on the date of withdrawal exceeds the 100% valuation of the real estate pursuant to this subchapter on the preceding April 1st by the following rates:

(1) If the real estate was subject to valuation under this subchapter for 10 years or less prior to the date of withdrawal, the rate is 30%; and

(2) If the real estate was subject to valuation under this subchapter for more than 10 years prior to the date of withdrawal, the rate is that percentage obtained by subtracting 1% from 30% for each full year beyond 10 years that the real estate was subject to valuation under this subchapter prior to the date of withdrawal until a rate of 20% is reached.

For purposes of this section, just value at the time of withdrawal is the assessed just value of comparable property in the municipality adjusted by the municipality's certified assessment ratio.

4. Assessment and collection of penalties. The penalties for withdrawal must be paid upon withdrawal to the tax collector as additional property taxes. Penalties may be assessed and collected as supplemental assessments in accordance with section 713-B.

5. Eminent domain. A penalty may not be assessed under this section if the withdrawal of the parcel is occasioned by a transfer to the State or other entity holding the power of eminent domain resulting from the exercise or threatened exercise of that power.

6. Relief from requirements. Upon withdrawal, the land is relieved of the requirements of this subchapter immediately and is returned to taxation under the statutes relating to the taxation of real property to be so taxed on the following April 1st.

7. Reclassification as open space. No penalty may be assessed upon the withdrawal of land from taxation under this subchapter if the owner or owners apply for and are accepted for classification of that land as open space land under subchapter 10.

8. Report of penalty. Any municipality that receives a penalty for the withdrawal of land from taxation under this subchapter shall report to the State Tax Assessor the total amount received in that reporting year on the municipal valuation return form described in section 383.

§ 1139. Enforcement

A tax lien is created to secure the payment of the penalties provided in section 1138. The lien may be enforced in the same manner and has the same effect as liens on real estate created by section 552.

§ 1140. Transfer of ownership

If land taxed under this subchapter is transferred to a new owner or owners, in order to maintain the classification, within one year of the date of transfer, the new owner or owners must file with the assessor a new application and a sworn statement indicating that the transferred parcel continues to meet the requirements of section 1132, subsection 11.

§ 1140-A. Appeals and abatements

The denial of an application or an assessment made under this subchapter is subject to the abatement procedures provided by section 841. Appeal from a decision rendered under section 841 is to the State Board of Property Tax Review.

§ 1140-B. Analysis and report

1. Analysis. The State Tax Assessor, in consultation with municipal assessors, the director of the Land for Maine's Future Program within the Executive Department, State Planning Office, representatives of working waterfront organizations and other interested parties, shall collect and analyze the sales prices of all actual sales that occur in the State of waterfront land that is subject to restrictions on that land's use that are legally enforceable and prohibit or substantially restrict development that is not commercial fishing activity or commercial activity that is the functional equivalent of commercial fishing activity.

2. Report. By January 15th of each even-numbered year, the State Tax Assessor shall submit a report to the joint standing committee of the Legislature having jurisdiction over taxation matters that identifies the total value of each sale of working waterfront land and the value of each sale that is reasonably related to the working waterfront land, that compares the sale price of the working waterfront land with the just value of the same land and that categorizes the sales data by region, type of commercial use or commercial fishing use and any other relevant categories. The report may include any other data or analysis that the assessor finds relevant and any recommendations the assessor develops to assist municipal assessors in calculating the current use value of enrolled working waterfront land that is used for or supports commercial fishing activities. The report may also include recommendations to amend this subchapter for the purposes of improving or ensuring the accuracy of current use assessment of working waterfront land.

Sec. 63. 36 MRSA c. 105, sub-c. 11, as amended, is repealed.

Sec. 64. 36 MRSA §2013, sub-§1, ¶A, as amended by PL 2005, c. 519, Pt. QQQ, §1 and affected by §2 and amended by c. 638, §2, is repealed and the following enacted in its place:

A. "Commercial agricultural production" means commercial production of crops for human and animal consumption, including the commercial production of sod, agricultural composting operation as defined in Title 17, section 2805, the commercial production of seed to be used primarily to raise crops for nourishment of humans or animals and the production of livestock, including the removal and storage of manure from that livestock.

Sec. 65. 36 MRSA §2017, as enacted by PL 2005, c. 665, §4, is reallocated to 36 MRSA §2018.

§ 2018. Qualified community wind power generator; reimbursement of certain taxes

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Advanced communications technology infrastructure" has the same meaning as in Title 35-A, section 9202. [PL 2005, c. 665, § 4 (NEW).]

B. "Authority" has the same meaning as in Title 35-A, section 9202. [PL 2005, c. 665, § 4 (NEW).]

C. "Qualifying ConnectME zone" means a geographical area that is eligible for tax reimbursement under this section because the authority has determined that the area is an unserved or underserved area. [PL 2005, c. 665, § 4 (NEW).]

[PL 2005, c. 665, § 4 (NEW).]

2. Reimbursement allowed. Following final adoption of rules under subsection 7, but in no event earlier than July 1, 2007, a reimbursement is allowed as provided in this section for taxes paid pursuant to this Part with respect to machinery and equipment purchased for use by a person to develop an advanced communications technology infrastructure in a qualifying ConnectME zone.[PL 2005, c. 665, § 4 (NEW).]

3. Claim for reimbursement. A claim for reimbursement under this section must be filed with the assessor within 3 years from the date on which the machinery and equipment was purchased. The purchaser shall submit the reimbursement claim on a form prescribed by the assessor and must include a statement from the authority certifying that the machinery and equipment is being used primarily to develop an advanced communications technology infrastructure in a qualifying ConnectME zone. The purchaser and the authority shall retain all records pertaining to such certification and to the purchases in question for at least 6 years. The reimbursement claim must be accompanied by such additional information as the assessor may require.[PL 2005, c. 665, § 4 (NEW).]

4. Reimbursement limit. The authority may not certify for reimbursement under this section a total amount in excess of \$500,000 in any state fiscal year.[PL 2005, c. 665, § 4 (NEW).]

5. Audit. The assessor may audit any claim filed under this section. If the assessor determines that the amount of the claimed reimbursement is incorrect, the assessor shall redetermine the claim and notify the claimant in writing of the redetermination. If the claimant has received reimbursement of an amount that the assessor concludes should not have been reimbursed, the assessor may issue an assessment for that amount within 3 years from the date the reimbursement claim was filed or at any time if a fraudulent reimbursement claim was filed. The claimant may seek reconsideration pursuant to section 151 of the redetermination or assessment.[PL 2005, c. 665, § 4 (NEW).]

6. Payment of claims. Within 30 days after receipt of a properly completed claim under this section, the assessor shall inform the State Controller of the certified amounts that are to be reimbursed to the claimant. The State Controller shall make the reimbursement and shall account for and pay it as a sales and use tax refund. Interest is not allowed on any payment made to a claimant pursuant to this section.[PL 2005, c. 665, § 4 (NEW).]

7. Rulemaking. The authority in cooperation with the assessor shall develop rules as necessary to administer this section. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.[PL 2005, c. 665, § 4 (NEW).]

8. Repeal. This section is repealed January 31, 2009.[PL 2005, c. 665, § 4 (NEW).]

36 §02017

Reimbursement of certain taxes relating to advanced communications technology infrastructure

(WHOLE SECTION TEXT REPEALED 1/31/09 by T. 36, §2017, sub-§8; PL 2005, c. 665, §4 (new))

[PL 2005, c. 646, § 6 (NEW).][PL 2005, c. 665, § 4 (NEW).]

Sec. 66. 36 MRSA §4064, first ¶, as amended by PL 2005, c. 618, §5 and affected by §22 and amended by c. 622, §20, is repealed and the following enacted in its place:

A tax is imposed upon the transfer of real property and tangible personal property situated in this State and held by an individual who dies prior to January 1, 2002 or after December 31, 2002 and who at the time of death was not a resident of this State. When real or tangible personal property has been transferred into a trust or a limited liability company or other pass-through entity, the tax imposed by this section applies as if the trust or limited liability company or other pass-through entity did not exist and the property was personally owned by the decedent. Maine property is subject to the tax imposed by this section to the extent that such property is either included in the decedent's federal gross estate or is Maine elective property. The amount of this tax is equal to that proportion of the federal credit that the value of the decedent's Maine real and tangible personal property in this State bears to the value of the decedent's federal gross estate. The share of the federal credit used to determine the amount of a nonresident individual's estate tax under this section is computed without regard to whether the specific real or tangible personal property located in the State is marital deduction property.

Sec. 67. Application. That section of this Act that repeals and replaces Title 36, section 4064, first paragraph applies to the estates of decedents who die on or after January 1, 2005.

Sec. 68. 36 MRSA §4404-A, sub-§2, as enacted by PL 2005, c. 627, §11, is amended to read:

2. Manufacturers. A manufacturer may transport tobacco products into this State and may transport tobacco products from place to place within this State in quantities greater than those excepted in ~~section~~subsection 3 for the purpose of marketing and sales if the sale or distribution of those tobacco products is accounted for and the taxes are paid by a person licensed pursuant to section 4402.

Sec. 69. 36 MRSA §5122, sub-§1, ¶V, as amended by PL 2005, c. 519, Pt. CC, §1 and Pt. NNN, §1 and affected by §3, is repealed and the following enacted in its place:

V. For tax years beginning on or after January 1, 2003 and before January 1, 2006, the amount claimed as a federal income adjustment for student loan interest under the Code, Section 62 (a)(17), but only for interest paid after 60 months from the start of the loan repayment period; and

Sec. 70. 36 MRSA §5122, sub-§2, ¶V, as enacted by PL 2005, c. 622, §28 and affected by §33 and amended by c. 644, §6, is repealed and the following enacted in its place:

V. The taxpayer's pro rata share of an amount that was previously added back to federal taxable income pursuant to section 5200-A, subsection 1, paragraph H by an S corporation of which the taxpayer is a shareholder and by which, absent the S corporation election, the corporation could have reduced its federal taxable income for the taxable year pursuant to section 5200-A, subsection 2, paragraph H;

Sec. 71. 36 MRSA §5122, sub-§2, ¶W, as enacted by PL 2005, c. 622, §29 and affected by §33 and enacted by c. 644, §7, is repealed and the following enacted in its place:

W. The taxpayer's pro rata share of an amount that was previously added back to federal taxable income pursuant to section 5200-A, subsection 1, paragraph M by an S corporation of which the taxpayer is a shareholder and by which, absent the S corporation election, the corporation could have reduced its federal taxable income for the taxable year pursuant to section 5200-A, subsection 2, paragraph L;

Sec. 72. 36 MRSA §5122, sub-§2, ¶X, as enacted by PL 2005, c. 622, §30 and affected by §33, is amended to read:

X. The taxpayer's pro rata share of an amount that was previously added back to federal taxable income pursuant to section 5200-A, subsection 1, paragraph N by an S corporation of which the taxpayer is a shareholder and by which, absent the S corporation election, the corporation could have reduced its federal taxable income for the taxable year pursuant to section 5200-A, subsection 2, paragraph M;

Sec. 73. 36 MRSA §5122, sub-§2, ¶Y is enacted to read:

Y. The portion of contributions to a qualified tuition program established under Section 529 of the Code up to \$250 per designated beneficiary. This deduction may not be claimed on returns when federal adjusted gross income exceeds \$100,000 for returns with a filing status of single or married filing separately or \$200,000 for returns with a filing status of married joint or head of household; and

Sec. 74. 36 MRSA §5122, sub-§2, ¶Z is enacted to read:

Z. For income tax years beginning on or after January 1, 2006, to the extent included in federal adjusted gross income and not otherwise removed from Maine taxable income, an amount equal to the total of capital gains and ordinary income resulting from depreciation recapture determined in accordance with the Code, Sections 1245 and 1250 that is realized upon the sale of property certified as multifamily affordable housing property by the Maine State Housing Authority in accordance with Title 30-A, section 4722, subsection 1, paragraph AA.

Sec. 75. Application. That section of this Act that repeals and replaces Title 36, section 5122, subsection 2, paragraph V applies to tax years beginning on or after January 1, 2005. That section of this Act that enacts Title 36, section 5122, subsection 2, paragraph Y applies to tax years beginning on or after January 1, 2007.

Sec. 76. 36 MRSA §6652, sub-§1, as amended by PL 2005, c. 618, §19 and c. 623, §3, is repealed and the following enacted in its place:

1. Generally. A person against whom taxes have been assessed pursuant to Part 2, except for chapters 111 and 112, with respect to eligible property and who has paid those taxes is entitled to reimbursement of a portion of those taxes from the State as provided in this chapter. The reimbursement under this chapter is the percentage of the taxes assessed and paid with respect to eligible property specified in subsection 4, except that for claims filed for the application period that begins on August 1, 2006 the reimbursement is limited to 90% of the taxes assessed and paid with respect to eligible property. For purposes of this chapter, a tax applied as a credit against a tax assessed pursuant to chapter 111 or 112 is a tax assessed pursuant to chapter 111 or 112. A taxpayer that included the same property in its investment credit base under section 5219-E or 5219-M and claimed the credit provided in one or more of those sections on its income tax return may not be reimbursed under this chapter for taxes assessed in a year in which one or more of those credits are taken. A successor in interest of a person against whom taxes have been assessed with respect to eligible property is entitled to reimbursement pursuant to this section, whether the tax was paid by the person assessed or by the successor, as long as a transfer of the property in question to the successor has occurred and the successor is the owner of the property as of August 1st of the year in which a claim for reimbursement may be filed pursuant to section 6654. For purposes of this paragraph, "successor in interest" includes the initial successor and any subsequent successor. When an eligible successor in interest exists, the successor is the only person to whom reimbursement under this chapter may be made with respect to the transferred property. For an item of eligible business equipment that is first subject to assessment under Part 2 on or after April 1, 2008, and for any item of eligible business equipment for which reimbursement is paid under subsection 4, paragraph B, the reimbursement otherwise payable under this section with respect to that item of eligible business equipment must be reduced by an amount equal to the amount, if any, by which the reimbursement otherwise payable under this section plus payments received by the taxpayer under a tax increment financing arrangement pursuant to Title 30-A, chapter 206, subchapter 1 with respect to that item of eligible business equipment exceeds 100% of the property taxes assessed with respect to that item of eligible business equipment.

Sec. 77. 38 MRSA §1277, first ¶, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §220, is further amended to read:

The Department of ~~Administration~~Administrative and Financial Services shall provide supporting services to the commissioner for the implementation of this chapter, including:

Sec. 78. 38 MRSA §1310-B, sub-§2, as amended by PL 2005, c. 561, §7 and c. 590, §3, is repealed and the following enacted in its place:

2. Hazardous waste information and information on mercury-added products and electronic devices and mercury reduction plans. Information relating to hazardous waste submitted to the department under this subchapter, information relating to mercury-added products submitted to the department under chapter 16-B, information relating to electronic devices submitted to the department under section 1610, subsection 6, paragraph A, subparagraph (4), division (i) and section 1610, subsection 6, paragraph B or information relating to mercury reduction plans submitted to the department under section 585-B, subsection 6 may be designated by the person submitting it as being only for the confidential use of the department, its agents and employees, the Department of Agriculture, Food and Rural Resources and the Department of Health and Human Services and their

agents and employees, other agencies of State Government, as authorized by the Governor, employees of the United States Environmental Protection Agency and the Attorney General and, for waste information, employees of the municipality in which the waste is located. The designation must be clearly indicated on each page or other portion of information. The commissioner shall establish procedures to ensure that information so designated is segregated from public records of the department. The department's public records must include the indication that information so designated has been submitted to the department, giving the name of the person submitting the information and the general nature of the information. Upon a request for information, the scope of which includes information so designated, the commissioner shall notify the submitter. Within 15 days after receipt of the notice, the submitter shall demonstrate to the satisfaction of the department that the designated information should not be disclosed because the information is a trade secret or production, commercial or financial information, the disclosure of which would impair the competitive position of the submitter and would make available information not otherwise publicly available. Unless such a demonstration is made, the information must be disclosed and becomes a public record. The department may grant or deny disclosure for the whole or any part of the designated information requested and within 15 days shall give written notice of the decision to the submitter and the person requesting the designated information. A person aggrieved by a decision of the department may appeal only to the Superior Court in accordance with the provisions of section 346. All information provided by the department to the municipality under this subsection is confidential and not a public record under Title 1, chapter 13. In the event a request for such information is submitted to the municipality, the municipality shall submit that request to the commissioner to be processed by the department as provided in this subsection.

Sec. 79. 38 MRSA §1665-A, sub-§9, as amended by PL 2003, c. 6, §1, is further amended to read:

9. Reporting. Before January 1, 2003 and annually thereafter, motor vehicle manufacturers doing business in the State shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters on any fee or other charge collected on the sale of new motor vehicles for the purpose of paying the cost of carrying out the manufacturer responsibilities under subsection 5. The report must specify the amount of the fee or charge collected and how the amount of the fee or charge was determined. Before July 1, 2004 and annually thereafter, motor vehicle manufacturers shall report in writing to the department on the results of the source separation required under this section. The report must include, at a minimum, the number of mercury switches removed and recycled from motor vehicles during the previous calendar year; the estimated total amount of mercury contained in the components; and any recommendations to improve the future collection and recycling of motor vehicle components. ~~Before January 1, 2004 and annually thereafter, the department shall report to the Mercury Products Advisory Committee on the effectiveness of the source separation required under this section, whether the partial reimbursement payment under subsection 5, paragraph B should be adjusted to increase the number of switches brought to consolidation facilities, whether other motor vehicle components should be added to the source separation efforts and whether the program should be terminated and, if so, when.~~

Sec. 80. 38 MRSA §2401, as repealed by PL 1995, c. 49, §2 and c. 50, §2 and amended by c. 65, Pt. A, §151 and affected by §153 and Pt. C, §15, is repealed.

Sec. 81. 38 MRSA §2402, as repealed by PL 1995, c. 49, §2 and c. 50, §2 and amended by c. 65, Pt. A, §152 and affected by §153 and Pt. C, §15, is repealed.

Sec. 82. P&SL 2005, c. 60, §7 is amended to read:

Sec. 7. Effective date. Sections 1 to 4~~5~~ of this Act take effect on July 1, 2007 if deorganization is approved by the voters of Drew Plantation pursuant to section 5~~6~~ of this Act.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved, except as otherwise indicated.

SUMMARY

Section 1 repeals a provision of law pertaining to the Maine Health Care Finance Commission, which was eliminated by Public Law 1995, chapter 653, Part B.

Section 2 changes the term "case management officers" to "law magistrates" to reflect the change that was made by Public Law 2005, chapter 384.

Section 3 makes technical changes and corrects a punctuation error.

Section 4 corrects a reference to federal law.

Section 5 makes a technical change and corrects the name of a department to reflect the change made by Public Law 1991, chapter 780, Part Y.

Section 6 makes technical changes and corrects the name of a department to reflect the change made by Public Law 1991, chapter 780, Part Y.

Sections 7 and 8 clarify references to the Margaret Chase Smith Center for Public Policy within the University of Maine System and to the County and Local Government Internship Program administered by the center.

Section 9 repeals a provision of law pertaining to the Maine Health Care Finance Commission, which was eliminated by Public Law 1995, chapter 653, Part B.

Section 10 corrects the name of a department to reflect the change made by Public Law 1991, chapter 780, Part Y and removes unnecessary language.

Section 11 corrects the name of a department to reflect the change made by Public Law 1991, chapter 780, Part Y and updates a reference to the Bureau of General Services.

Section 12 corrects the name of a department to reflect the change made by Public Law 1991, chapter 780, Part Y and makes grammatical changes.

Section 13 corrects the name of a department to reflect the change made by Public Law 1991, chapter 780, Part Y and makes a technical change.

The Policy Review Board was eliminated by Public Law 1999, chapter 668. Sections 14 to 22 strike references to the Policy Review Board and make technical corrections.

Section 23 repeals the language that established the Mercury Products Advisory Committee, since the committee was eliminated on August 1, 2006 pursuant to the Maine Revised Statutes, Title 38, section 1670, subsection 9.

Section 24 corrects a conflict created when Public Law 1995, chapter 560, Part B, section 5 repealed Title 5, section 13069, and Public Law 1995, chapter 688 made technical changes to Title 5, section 13069, subsection 1, paragraph A. This section corrects the conflict by repealing all of Title 5, section 13069.

Section 25 corrects a conflict created when Public Law 1989, chapter 700 amended Title 5, section 13075, subsection 6, and Public Law 1989, chapter 702 repealed Title 5, section 13075 in its entirety. This section corrects the conflict by repealing all of Title 5, section 13075.

Section 26 corrects a conflict created when Public Law 2005, chapters 585 and 620 both amended the same provision of law. This section corrects the conflict by repealing Title 7, section 607, subsection 6 and replacing it with subsection 6 as amended by Public Law 2005, chapter 585.

Section 27 corrects cross-references to 2 sections that were repealed in and had similar counterparts enacted by Public Law 1997, chapter 528. Section 28 corrects a conflict that was created when Public Law 1997, chapter 474 enacted Title 8, section 275-I, subsection 2, paragraph E, and Public Law 1997, chapter 528 repealed all of Title 8, section 275-I by repealing all of Title 8, section 275-I.

Section 29 corrects a conflict created by Public Law 2005, chapters 563 and 576, which affected the same provision of law. This section repeals the provision and replaces it with the chapter 563 version.

Section 30 corrects the name of a department to reflect the change made by Public Law 1991, chapter 780, Part Y and makes technical changes.

Section 31 corrects a conflict created by Public Law 2005, chapters 563 and 663, which both substantively affected the same provision of law. This section corrects the conflict by incorporating the changes made by both laws.

Section 32 corrects a conflict created when Public Law 1997, chapter 641 amended Title 12, section 602, subsection 18 and chapter 678 repealed Title 12, chapter 203, which contained Title 12, section 602, subsection 18. This section corrects the conflict by repealing the section.

The substantive change made by Public Law 1997, chapter 641 is incorporated in Title 12, section 1825, subsection 1.

Sections 33 and 34 correct the name of a department and a bureau to reflect the changes made by Public Law 1991, chapter 780, Part Y and make technical corrections.

Section 35 corrects a conflict created when Public Law 1989, chapter 403 repealed Title 12, section 4818 and chapter 502 amended Title 12, section 4818, subsection 1, paragraph B. This section corrects the conflict by repealing all of Title 12, section 4818.

Sections 36 and 37 correct a conflict created when Public Law 2005, chapter 233 amended the law setting the shellfish harvesting fee to provide an exception for shellfish licenses issued to applicants 70 years of age or older and chapter 434 changed the name of the license to "commercial shellfish license." Section 36 corrects the conflict by incorporating the changes made by both public laws and section 37 corrects the name of the license issued to applicants 70 years of age or older.

Section 38 corrects a conflict created when Public Law 2005, chapter 502 amended Title 12, section 8861 in a nonsubstantive manner and chapter 555 repealed Title 12, chapter 805, subchapter 3, article 3, which contained Title 12, section 8861. This section corrects the conflict by repealing all of Title 12, section 8861.

Section 39 corrects the name of a department to reflect the change made by Public Law 1991, chapter 780, Part Y and also makes a technical correction.

Section 40 corrects the name of a department to reflect the change made by Public Law 1991, chapter 780, Part Y.

Section 41 corrects cross-references and makes technical changes.

Section 42 corrects the name of a department to reflect the change made by Public Law 1991, chapter 780, Part Y and corrects grammatical errors.

Section 43 repeals a section of law that places a requirement on the Maine Health Care Finance Commission since the commission was eliminated by Public Law 1995, chapter 653, Part B, section 4.

Section 44 clarifies a reference to the former Maine Health Care Finance Commission, which was eliminated by Public Law 1995, chapter 653, Part B, section 4.

Section 45 corrects a conflict created when Public Law 2001, chapter 531 amended Title 22, section 7904-A, subsections 1, 8, 9, 10 and 11 and chapter 596 repealed Title 22, chapter 1665, which contained Title 22, section 7904-A. The conflict is corrected by repealing all of Title 22, section 7904-A.

The substantive change proposed by Public Law 2001, chapter 531 is contained in Title 22, section 7855.

Section 46 clarifies references to the former Maine Health Care Finance Commission, which was eliminated by Public Law 1995, chapter 653, Part B, section 4.

Section 47 corrects a conflict created when Public Law 1997, chapter 315 amended Title 24-A, section 1531, subsection 1, paragraph F and chapter 457 repealed Title 24-A, chapter 17, which contained Title 24-A, section 1531. This section corrects the conflict by repealing all of Title 24-A, section 1531.

Section 48 corrects a conflict created when Public Law 1997, chapter 373 repealed Title 28-A, chapter 3, which contained Title 28-A, section 61, and chapter 424 amended Title 28-A, section 61, subsection 6. This section corrects the conflict by repealing all of Title 28-A, section 61.

Section 49 and section 50 correct dates in provisions of law relating to certificates of title for manufactured housing to be consistent with the effective date provided in Public Law 2005, chapter 678. Section 51 provides that these changes apply retroactively to January 1, 2007.

Section 52 corrects a cross-reference to Title 36, section 5122, subsection 2, paragraph W, which is reallocated in this bill to paragraph Z.

Section 53 corrects a department name to reflect the change made by Public Law 1991, chapter 780, Part Y and makes a technical change.

Section 54 corrects a clerical error.

Section 55 corrects a conflict created when Public Law 2005, chapters 637 and 650 affected the same provision of law. This section corrects the conflict by incorporating the changes made by both laws.

Section 56 corrects a conflict created when Public Law 1995, chapter 395 repealed Title 32, section 1866-A and chapter 465 amended Title 32, section 1866-A, subsection 3. This conflict is corrected by repealing all of Title 32, section 1866-A.

The substantive change proposed by Public Law 1995, chapter 465 is contained within Title 32, section 1866-B.

Section 57 corrects punctuation errors.

Section 58 corrects a conflict created when Public Law 2005, chapters 397 and 519 both affected the same provision of law. The conflict is corrected by repealing the provision and replacing it with the chapter 519 version and eliminating redundant language.

Section 59 corrects a conflict created when Public Law 2005, chapters 397 and 519 both affected the same provision of law. This section repeals the provision and replaces it with the chapter 519 version as the chapter 397 version was a nonsubstantive change.

Section 60 repeals a provision of law pertaining to the Maine Health Care Finance Commission, which was eliminated by Public Law 1995, chapter 653, Part B, section 4.

Sections 61 to 63 correct a conflict created when Public Law 2005, chapter 609 enacted Title 36, chapter 105, subchapter 11, although an earlier subchapter containing sections with numbers the same as some of those used in the new subchapter 11 had been repealed by Public Law 1979, chapter 666. The conflict is corrected by enacting a new subchapter 10-A, renumbering the sections and correcting cross-references.

Section 64 corrects a conflict created when Public Law 2005, chapter 519 amended the definition of “commercial agricultural production” to include the removal and storage of manure from livestock and chapter 638 amended the definition to include agricultural composting operation. This section corrects the conflict by incorporating the changes made by both public laws.

Section 65 corrects a conflict created when Public Law 2005, chapter 646 and chapter 665 enacted 2 substantively different provisions of law with the same section number. This section corrects the conflict by reallocating the provision as enacted by Public Law 2005, chapter 665, section 4 to Title 36, section 2018.

Section 66 corrects a conflict created by Public Law 2005, chapter 618, which amended the provision of law regarding the tax on the estate of a nonresident to include Maine elective property as property of the decedent that is subject to tax, and chapter 622, which enacted a definition of “value” in Maine estate tax law and removed other language that in effect defined “value.” Section 66 incorporates the changes made by both public laws and section 67 provides for an application date of January 1, 2005, as did Public Law 2005, chapter 618.

Section 68 corrects a cross-reference.

Section 69 corrects a conflict created when Public Law 2005, chapter 519, Part CC, section 1 and Part NNN, section 1 both amended the same provision of law. This section corrects the conflict by incorporating the changes made by both laws.

Sections 70 to 74 correct an error created when Public Law 2005, chapters 519, 622 and 644 enacted new paragraphs in Title 36, section 5122, subsection 2. Public Law 2005, chapters 519 and 622 both enacted a new paragraph V, and chapters 622 and 644 both enacted a new paragraph W. Section 70 corrects the error by repealing and replacing paragraph V using the text of the chapter 622 version, and section 73 enacts a new paragraph Y using the chapter 519 version, as amended by Public Law 2005, chapter 644. Section 72 makes a punctuation change to reflect the addition of additional paragraphs. Section 71 repeals and replaces paragraph W using the chapter 622 version, and section 74 enacts a new paragraph Z using the chapter 644 version. Section 75 also adds an application section to reflect the application dates in Public Law 2005, chapters 519 and 622.

Section 76 corrects a conflict created when Public Law 2005, chapters 618 and 623 both substantively affected the same provision of law. This section corrects the conflict by incorporating the changes made by both laws.

Section 77 corrects the name of a department to reflect the change made by Public Law 1991, chapter 780, Part Y.

Section 78 corrects a conflict created when Public Law 2005, chapters 561 and 590 both substantively affected the same provision of law. This section corrects the conflict by incorporating the changes made by both laws and clarifies a cross-reference.

Section 79 removes language requiring the Department of Environmental Protection to annually report to an advisory committee that no longer exists. This is a companion section to that section of this bill that repeals Title 5, section 12004-I, subsection 24-A.

Section 80 corrects a conflict created when Public Law 1995, chapters 49 and 50 repealed Title 38, chapter 28, which contained section 2401, and chapter 65 amended section 2401, subsection 6. This section corrects the conflict by repealing all of section 2401.

Section 81 corrects a conflict created when Public Law 1995, chapters 49 and 50 repealed Title 38, chapter 28, which contained section 2402, and chapter 65 amended section 2402, subsection 4, paragraphs C and E. This section corrects the conflict by repealing all of section 2402.

Section 82 corrects cross-references.